

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayner

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern
States Power Company for a Certificate of
Need to Increase the Capability of Its Black
Dog Generating Facility

ISSUE DATE: February 24, 2000

DOCKET NO. E-002/CN-99-1815

ORDER ACCEPTING FILING,
DELEGATING PREPARATION OF
ENVIRONMENTAL REPORT AND
SETTING FEE

PROCEDURAL HISTORY

On December 30, 1999, Northern States Power Company (NSP) filed a certificate of need application for permission to increase the generating capability of its Black Dog power plant. NSP plans to install gas-fired generating technology in place of the existing coal-fired generating technology in Black Dog units 1 and 2. The proposed project is a "large energy facility" as defined in Minn. Stat. § 216B.2421, subd.2(a).

On January 4, 2000, the Commission issued a revised notice requesting comment on the completeness of NSP's application. The initial and reply comment deadlines given in that notice were January 17, 2000 and January 24, 2000, respectively.

On January 14, 2000, NSP filed additions and revisions to its certificate of need application.

On January 18, 2000 the Department of Commerce (the Department) filed its comments on the completeness of NSP's application. NSP replied on January 24, 2000.

On February 3, 2000, the Commission issued its ORDER EXTENDING COMPLETENESS REVIEW PERIOD. In that Order the Commission varied Minn. Rules, part 7849.0200, subp. 5 to extend the period for Commission action on the completeness of the application.

On February 3, 2000, the Commission met to consider whether NSP's certificate of need is substantially complete, in accordance with Minn. Rules, part 7849.0200, subp.5.¹

FINDINGS AND CONCLUSIONS

I. THE COMPLETENESS OF THE CERTIFICATE OF NEED APPLICATION

The criteria for assessment of need and the application requirements for large electric generation facilities are found in Minn. Rules, parts 7849.0010 to 7849.0400. Application requirements are specified in parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340. Minn. Rules, part 7849.0200, subp. 5 states as follows:

Complete application. The commission must notify the applicant within 30 days of the receipt of an application if the application is not substantially complete. On notification, the applicant may correct any deficiency and may resubmit the application. If the revised application is substantially complete, the date of its submission is considered the application date.

The intent of the completeness review is to ensure that the application contains the kind and depth of information sufficient to begin the period for considering the merits of the filing. In this case, having examined the filing and considered the Department's comments, the Commission finds that the filing is substantially complete, as supplemented on January 14, 2000.

The Commission's finding of substantial completeness is as to form only; it implies no judgment on the merits of the application. Neither should the Commission's acceptance of the filing as substantially complete be construed by the applicant as a reason to refuse reasonable discovery requests.

II. THE ENVIRONMENTAL REPORT REQUIREMENT

Pursuant to Minn. Rules, part 4410.7100, the Commission is responsible for preparing an environmental report on each application for a certificate of need for a large electric generating facility. The environmental report is included in the certificate of need hearing record. That record will be considered by the Commission as it eventually determines the merits of the certificate of need application.

¹ At the meeting the Commission determined that the certificate of need application should be set for contested case proceedings. The Commission is issuing a NOTICE AND ORDER FOR HEARING on the same date as this Order.

In light of the need for the Commission to maintain neutrality for its ultimate finding on the application, in deference to the investigatory expertise of the Department, and consistent with past Commission practice,² the Commission will delegate to the Department the preparation of the environmental report in this proceeding.

III. PAYMENT OF FEES

Fees for the processing of a certificate of need application are set by Minn. Rules³ at \$10,000 plus \$50.00 for each megawatt of plant capacity for large energy generating facilities. Twenty-five percent of the fee must accompany the application and the balance must be paid in three equal installments within 45, 90 and 135 days after the submission of the application.⁴ The Rules⁵ further provide that if the nominal generating capacity of a large energy generating facility varies by season, the higher of the two seasonal figures is considered its size.

NSP indicated that the nominal summer capability of the repowered facility will be 290 MW and the nominal winter capability will be 323 MW. The current equipment capability is at 176 MW. The increase in nominal generating capacity would be 114 MW in the summer and 147 MW in the winter.

NSP calculated the applicable fee at \$15,700 by using the increase in nominal generating capacity for the summer season. The fee should be based on the increase of nominal generating capacity for the winter season and should be \$17,350. The Commission directs that NSP be permitted to adjust the installment payment due in February to include the amount due but not paid at the time the application was submitted and to adjust each installment payment to reflect a total fee of \$17,350.00.

² See, for example, In the Matter of the Application of Lakefield Junction LLP for Certification of Its Southern Minnesota Independent Power Project, Docket No. IP-3/CN-98-1453.

³Minn. Rules, 7849.0210, subp.1

⁴Minn. Rules, 7849.0210, subp.2

⁵Minn. Rules, 7849.0030, subp. 1

ORDER

1. The Commission accepts NSP's certificate of need application as substantially complete as supplemented on January 14, 2000.
2. The Commission delegates its responsibility for preparation, distribution, and sponsorship of the environmental report required under Minn. Rules, part 4410.7100, to the Department of Commerce.
3. NSP shall pay a filing fee of \$17,350.00. NSP shall increase its February installment to include the amount due but not paid upon filing.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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